

ORIGINAL
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07 NOV 15 PM 4: 27

RICHARD W. HENNING

U.S. DISTRICT COURT
SAN JOSE, CALIF.

Balám O. Letona SBN 229642

LAW OFFICE OF BALÁMO. LETONA, INC.

1347 Pacific Avenue, Suite 203

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Attorneys for Plaintiff(s):

LEANDRO G. PEREZ

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSÉ DIVISION

LEANDRO G. PEREZ,

Plaintiff,

v.

CAVALRY PORTFOLIO SERVICES,
LLC., CAVALRY SPV I, LLC.,
CAVALRY INVESTMENTS, LLC., WINN
AND ASSOCIATES f/k/a WINN AND
SIMS, and DOES 1 to 10, inclusive,

Defendant(s).

C 07 05815

Case No.

COMPLAINT

DEMAND FOR JURY TRIAL

15 U.S.C. § 1692 *et seq.*, and

Malicious Prosecution

JF
RS

I. INTRODUCTION

1. In what can only be described as an unfair, unconscionable and oppressive act

Defendants filed a time-barred suit against a senior citizen. Mr. Leandro G. Perez is
an unsophisticated consumer that because of circumstances must work part-time to

1 make ends meet. Defendants sued Mr. Perez, a senior citizen, on a time-barred debt in
2 the hopes of being able to garnish his wages, oppress him into repaying the time-
3 barred debt and/or execute on an ill gotten gain through other means. Fortunately,
4 Mr. Perez successfully defended the underlying state suit, but not before Defendants
5 subjected him to a psychological and physical nightmare.

6 **II. FACTUAL ALLEGATIONS**

- 7 2. To help his grandson purchase an automobile Mr. Leandro Perez (hereinafter
8 "Plaintiff"), co-signed for a vehicle on February 22, 1998 by signing a contract and
9 security agreement that was later assigned to Primus Automotive Financial Services.
10 The contract was a consumer credit obligation (hereinafter "debt"). The debt was
11 primarily for personal, family or household purposes and is therefore a "debt" as that
12 term is defined by 15 U.S.C. §1692a(5) and a "consumer debt" as that term is defined
13 by Cal. Civil Code § 1788.2(f). Additionally, the debt was acquired by means of a
14 "consumer credit transaction," as that term is defined by Cal. Civil Code § 1788.2(e),
15 between Plaintiff and Primus.
- 16 3. A few years later his grandson became late on the payments and the finance company
17 repossessed and sold the automobile on or about July 24, 2000. After the sale the
18 finance company alleged that Plaintiff still owed a debt of almost \$5,000.00.
- 19 4. On information and belief, in 2006 the alleged debt was purchased, assigned, placed
20 or otherwise transferred to Defendants for collection from the Plaintiff.
- 21 5. On or about March 2006 Defendant Cavalry Portfolio Services, or one of its agents,
22 obtained Plaintiff's credit report.
- 23 6. Defendant Cavalry Portfolio Services, or one of its agents, obtained Plaintiff's credit
24 reports on other occasions in the year 2006.
- 25 7. The credit reports evidence the fact the debt was time-barred.
- 26 8. Defendants began sending collection letters to Plaintiff and made telephone calls to
27 Plaintiff in an attempt to collect a debt.
- 28

1 9. During Defendants' telephone calls, and conversations with Plaintiff they stated they
2 would get their money one way or another and that if he did not pay the debt they
3 would garnish his wages and seize his personal property, including his automobile.

4 10. Plaintiff told Defendants that the car had been picked up a long time ago, much time
5 had passed and why were they calling now?

6 **Defendants filed a time-barred suit**

7 11. On November 16, 2006, Defendants Winn and Associates f/k/a Winn and Sims acting
8 on behalf and for Defendants sued Plaintiff to collect on the debt. Defendants served
9 Plaintiff with a copy of the summons and complaint sometime on or about December
10 3, 2006, a true and correct of the summons and complaint are attached as **Exhibit 1**.
11 The complaint is a "communication" in an attempt to collect a debt as that term is
12 defined by 15 U.S.C. § 1692a (2) and "debt collection" as that term is defined in Cal.
13 Civil Code §1788.2(b).

14 12. The complaint is signed by Brian N. Winn, attorney and agent for Defendants, and
15 includes an affidavit pursuant to Cal. Civ. Code §2984.4 wherein Mr. Winn declares
16 under penalty of perjury that the contract was sued upon and Plaintiff resides in the
17 judicial district where the lawsuit was filed.

18 13. Defendants sued Plaintiff on a time-barred debt.

19 14. In fact, the complaint fails to state that Plaintiff became indebted to Defendants within
20 four years of filing the complaint, and the exhibits attached to the complaint evince
21 the fact that the debt was time-barred or had other evidentiary and legal problems.

22 15. Defendants' lawsuit and conduct caused Plaintiff to suffer severe and substantial
23 emotional distress, and become anxious, scared, worried and stressed. Defendants
24 conduct caused Plaintiff to fixate on the fact that he had no money to pay Defendants
25 that his wages would be garnished and he was close to losing his personal property.

26 16. Also, Defendants conduct caused Plaintiff to begin experiencing fainting spells and
27 vomiting. The episodes lasted for almost four days. Eventually, Plaintiff was rushed
28 to the emergency room for medical attention to alleviate the pain and suffering that
Defendants had caused.

- 1 17. Plaintiff was hospitalized and took medication as directed by his physician.
- 2 18. On information and belief, Defendants knew or should have known before it filed the
- 3 lawsuit that the debt was time barred or had other evidentiary and legal problems.
- 4 Defendants hoped to gain a default against Plaintiff or deceive him into making a
- 5 subsequent payment to revive the statute of limitations.
- 6 19. Additionally, on information and belief, Defendants knew or should have known
- 7 when it bought the portfolio of debt that included Plaintiff's debt that the debt was
- 8 most likely time barred or had other evidentiary and legal problems.
- 9 20. Additionally, on information and belief, Defendants were unwilling or unable to
- 10 obtain evidence to prevail on the merits when it filed the lawsuit against Plaintiff.
- 11 21. On April 13, 2007, counsel for Plaintiff filed a general demurrer to Defendants
- 12 lawsuit which was set for a hearing on May 18, 2007. Counsel also sent a letter to
- 13 Defendants requesting any evidence that the debt was not time barred, and absent any
- 14 evidence to dismiss the matter immediately Plaintiff also sent a Demand for Items on
- 15 Account pursuant to C.C.P. §445.
- 16 22. In response, Defendants provided documentation that showed the debt to be time-
- 17 barred, and provided no documentation to the contrary.
- 18 23. Upon learning of the demurrer Defendants tried to force Plaintiff to sign a mutual
- 19 release and refused to dismiss the matter immediately.
- 20 24. Plaintiff refused to sign the release and demanded Defendants dismiss the lawsuit.
- 21 25. Finally, on May 7, 2007, Defendants dismissed the matter with prejudice, a true and
- 22 copy of the dismissal is attached as **Exhibit 2**.
- 23 26. On information and belief, Defendants have a pattern, and practice of abusive, and
- 24 unlawful collection practices similar to the above, including unfair and
- 25 unconscionable attempts to collect time-barred debts.
- 26 27. Defendants conduct caused Plaintiff to suffer panic attacks, anxiety, dizziness,
- 27 vomiting, mental anguish, trouble sleeping, headaches, emotional distress, constant
- 28 worry, upset stomach, amongst other negative emotions.

1 28. Additionally, Plaintiff missed time from work because of the emotional distress caused
2 by Defendants.

3 29. Defendants acted with malice, fraud and/or oppression, warranting exemplary and/or
4 punitive damages.

5 **III. JURISDICTION**

6 30. Jurisdiction of this Court arises under 15 U.S.C. § 1692k (d), 28 U.S.C. §1337, and
7 supplemental jurisdiction exists for the state law claims pursuant to 28 U.S.C. § 1367.
8

9 **IV. VENUE**

10 31. Venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(b), in that a
11 substantial part of the events or omissions giving rise to the claim occurred in this
12 judicial district.

13 32. Venue is also proper in this judicial district pursuant to 15 U.S.C. § 1692k(d), in that
14 the Defendants transacts business in this judicial district and the violations of the
15 FDCPA complained of occurred in this judicial district.

16 **V. INTRADISTRICT ASSIGNMENT**

17 33. This lawsuit should be assigned to the San José Division of this Court because a
18 substantial part of the events or omissions which gave rise to this lawsuit occurred in
19 Monterey County.

20 **VI. PARTIES**

21 34. Plaintiff, Leandro G. Perez, is a natural person residing in Monterey County,
22 California. Plaintiff is a "consumer" within the meaning of 15 U.S.C. § 1692a (3) and
23 a "debtor" within the meaning of Cal. Civil Code § 1788.2(h).

24 35. Defendant, Cavalry Portfolio Services, LLC, is a Delaware corporation engaged in the
25 business of collecting debts in this state with its principal place of business located at
26 7 Skyline Drive, Hawthorne, NY 10532. Defendant Cavalry Portfolio Services, LLC,
27 may be served as follows: Cavalry Portfolio Services, LLC, c/o CT Corporation
28 System.

1 36. Defendant, Cavalry SPV I, LLC, is a Delaware corporation engaged in the business of
2 collecting debts in this state with its principal place of business located at 7 Skyline
3 Drive, Hawthorne, NY 10532. Defendant Cavalry SPV I, LLC, may be served as
4 follows: Cavalry SPV I, LLC, c/o The Corporation Trust Company Corporation Trust
5 Center, 1203 Orange Street, Wilmington, DE, 19801.

6 37. Defendant, Cavalry Investments, LLC, is a Delaware corporation engaged in the
7 business of collecting debts in this state with its principal place of business located at
8 7 Skyline Drive, Hawthorne, NY 10532. Defendant Cavalry Investments, LLC may
9 be served as follows: Cavalry Investments, LLC, c/o CT Corporation System.

10 38. Defendant Winn and Associates f/k/a Winn & Sims is a law office engaged in the
11 business of collecting debts in this state with its principal place of business located at
12 110 E. Wilshire Avenue, Suite 212, Fullerton, CA 92832.

13 39. The principal business of Defendant Cavalry Portfolio Services, LLC, Defendant
14 Cavalry SPV I, LLC, Defendant Winn and Associates f/k/a Winn and Sims, and
15 Defendant Cavalry Investments, LLC, is the collection of debts using the mails and
16 phone or any instrumentality of interstate commerce. Defendant Cavalry Portfolio
17 Services, LLC., Defendant Cavalry SPV I, LLC., Defendant Winn and Associates
18 f/k/a Winn and Sims, and Defendant Cavalry Investments, LLC regularly attempts to
19 collect debts either directly or indirectly alleged to be due another. Defendant
20 Cavalry Portfolio Services, LLC., Defendant Cavalry SPV I, LLC., Defendant Winn
21 and Associates f/k/a Winn and Sims, and Defendant Cavalry Investments, LLC are
22 "debt collectors" within the meaning of 15 U.S.C. § 1692a (6), and third-party debt
23 collectors subject to the federal Fair Debt Collection Practices Act, 15 U.S.C. § 1692
24 et seq. Additionally, Defendant Cavalry Portfolio Services, LLC., Defendant Cavalry
25 SPV I, LLC., Defendant Winn and Associates f/k/a Winn and Sims, and Defendant
26 Cavalry Investments, LLC., are "debt collector" as that term is defined by Cal. Civil
27 Code § 1788.2(c).

28 40. The true names and capacities, whether individual, corporate, associate,
governmental, or otherwise, of Defendants, DOES 1 through 10, are unknown to

1 Plaintiffs at this time, who therefore sues said Defendants by such fictitious names.
 2 When the true names and capacities of said Defendants have been ascertained,
 3 Plaintiff will amend this complaint accordingly. Defendant is informed and believes,
 4 and thereon alleges, that each Defendant designated herein as a DOE is responsible,
 5 negligently or in some other actionable manner, for the events and happenings
 6 hereinafter referred to and caused damages thereby to the Plaintiff, as hereinafter
 7 alleged. Defendant, DOES 1-10, are and each of them is, a "debt collector" within the
 8 meaning of 15 U.S.C. § 1692a (6) and Cal. Civil Code § 1788.2(c).

- 9 41. At all times mentioned in all paragraphs, each of the Defendants was an officer,
 10 director, agent, servant, employee and/or joint venturer of his/her co-defendant and
 11 each of them, and at all said times, each Defendant was acting in the full course and
 12 scope of said office, directorship, agency, service, employment and/or joint venture.
 13 Defendants authorized, approved, conducted, and/or ratified the wrongful acts herein.
 14 Any reference to "Defendant" or "Defendants" without further qualification is meant
 15 by Plaintiff to refer to each Defendant, and all of them, named in all paragraphs.
- 16 42. Plaintiffs are informed and believes, and thereon alleges that at all times herein
 17 mentioned, Defendants, and DOES 1-10, inclusive, were and are individuals,
 18 corporations, partnerships, unincorporated associations, sole proprietorships and/or
 19 other business entities organized and existing under and by virtue of the laws of the
 20 State of California, or the laws of some other state or foreign jurisdiction and that said
 21 Defendants, and each of them, have regularly conducted business in the County of
 22 Monterey and this judicial district.

23 **VII. CLAIMS**

24 **FIRST CAUSE OF ACTION**

25 **FAIR DEBT COLLECTION PRACTICES ACT**

- 26 43. Plaintiffs bring the first claim for relief against Defendants under the Federal Fair
 27 Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692 et.seq. Plaintiff repeats,
 28 re-alleges and incorporates by reference all other paragraphs.

1 44. Defendants' acts and omissions violated the provisions of the FDCPA 15 U.S.C. 1692
2 et seq., including but not limited to: 15 U.S.C. §§ 1692d, 1692e, and 1692f.

3 45. Defendants engaged in conduct the natural consequences of which was to harass,
4 oppress or abuse Plaintiff and others in violation of 15 U.S.C. §1692d.

5 46. Defendants used false, deceptive or misleading representation or means in connection
6 with the collection of the debt in violation of 15 U.S.C. §1692e.

7 47. Defendants threatened to take legal action that cannot be taken, and took legal action
8 that cannot be taken, in violation of 15 U.S.C. §1692e (5).

9 48. Defendants made false, deceptive, and misleading statements in an attempt to collect
10 the debt in violation of 15 U.S.C. §1692e (10).

11 49. Defendants used unfair or unconscionable means to collect the debt in violation of 15
12 U.S.C. §1692f.

13
14 **SECOND CAUSE OF ACTION**

15 **MALICIOUS PROSECUTION**

16 50. Plaintiff repeats, realleges and incorporates by reference all of foregoing paragraphs.

17 51. Defendants' earlier action against Plaintiff was pursued to a legal termination in favor
18 of Plaintiff.

19 52. Defendants' knowingly sued a senior citizen on a time-barred debt.

20 53. Defendants' earlier action against Plaintiff was brought, and/or continued without
21 probable cause.

22 54. Defendants' earlier action was initiated, or continued with malice.

23 55. Defendants' actions were malicious, oppressive and fraudulent, warranting an award of
24 punitive or exemplary damages.

25
26 **VIII. REQUEST FOR RELIEF**

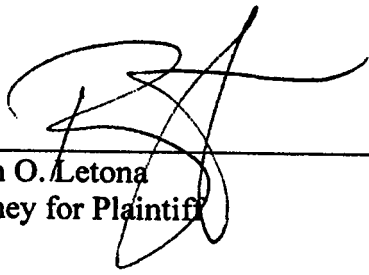
27 WHEREFORE, Plaintiff respectfully requests that the court grant:

28 A. Judgment against Defendants for violation of the FDCPA

B. Statutory damages pursuant to 15 U.S.C. §1692k.

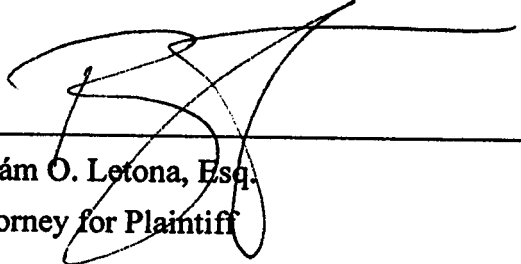
- 1 C. Costs, expenses incurred in the investigation, filing and prosecution of this action and
2 reasonable attorney's fees pursuant to 15 U.S.C. §1692 k.
3 D. Treble damages pursuant to Civil Code §3345.
4 E. Special, general, compensatory damages and punitive damages.
5
6

7 Dated 11/15/2007

8
9
10 
11 _____
12 Balám O. Letona
13 Attorney for Plaintiff

14 **IX. DEMAND FOR JURY TRIAL**

15 PLEASE TAKE NOTICE that Plaintiff, Leandro G. Perez, hereby demands a trial by jury of
16 all triable issues of fact in the above-captioned case.
17

18 
19 _____
20 Balám O. Letona, Esq.
21 Attorney for Plaintiff
22
23
24
25
26
27
28

SUMMONS
(CITACION JUDICIAL)

NOTICE TO DEFENDANT:

(AVISO AL DEMANDADO):

LEANDRO G PEREZ AKA LEANDRO PEREZ,
BOBBY PEREZ

DOES 1 to 10, Inclusive

YOU ARE BEING SUED BY PLAINTIFF

(LO ESTÁ DEMANDANDO EL DEMANDANTE):

CAVALRY PORTFOLIO SERVICES, LLC, as assignee of CAVALRY
SPV I, LLC, as assignee of PRIMUS AUTO FIN. SVCS.

FILED

NOV 16 2006

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter of phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DÍAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol/), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia. Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol/) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:

(El nombre y dirección de la corte es):

Superior Court of California
County of Monterey
1200 Agujito Rd.
Monterey, CA 93940

CASE NUMBER: **W 81708**
(Número de caso)

BY FAX

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

BRIAN N. WINN (STATE BAR NO. 86779) STEPHEN R. PRITSKER (STATE BAR NO. 158566)

JOHN E. GORDON (STATE BAR NO. 180053) WINN AND SIMS, A P.C. (714) 446-6686

THE CHAPMAN BUILDING, 110 E. WILSHIRE AVENUE, SUITE 212 FILE NO: 06-13747-0

FULLERTON, CALIFORNIA 92832 DAR (1910-00)

DATE: **NOV 16 2006** LISA M. GALDOS Clerk, by **DEIRDRE K. DINEEN**, Deputy
(Fecha) (Secretario) (Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

- 1 ☒ as an individual defendant.
2 ☐ as the person sued under the fictitious name of (specify):

- 3 ☐ on behalf of (specify):

- under: ☐ CCP 416.10 (corporation) ☐ CCP 416.60 (minor)
☐ CCP 416.20 (defunct corporation) ☐ CCP 416.70 (conservatee)
☐ CCP 416.40 (association or partnership) ☐ CCP 416.90 (authorized person)
☐ other (specify):

- 4 ☐ by personal delivery on (date):

[SEAL]

BRIAN N. WINN (State Bar No. 86779)
STEPHEN R. PRITSKER (State Bar No. 158566)
JOHN E. GORDON (State Bar No. 180053)
Winn and Sims, A Professional Corporation
THE CHAPMAN BUILDING
110 E. WILSHIRE AVE., SUITE 212
FULLERTON, CA 92832
(714) 446-6686
File No: 06-13747-0-DAR(1910-00)
Attorney for Plaintiff

FILED

NOV 16 2006

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
~~DEIRDRE K. DINEEN~~ DEPUTY

SUPERIOR COURT OF CALIFORNIA
MONTEREY COUNTY, MONTEREY DISTRICT

BY FAX
Case No. **M81708**

"LIMITED CIVIL CASE"

COMPLAINT FOR BREACH
OF CONTRACT, DEFICIENCY
BALANCE; OPEN BOOK ACCOUNT

DEMAND AMOUNT: \$5,558.84

CAVALRY PORTFOLIO SERVICES,
LLC, as assignee of CAVALRY
SPV I, LLC, as assignee of
PRIMUS AUTO FIN. SVCS.

Plaintiff,

vs

LEANDRO G PEREZ AKA LEANDRO
PEREZ; BOBBY PEREZ
DOES 1 TO 10, Inclusive

Defendant(s)

Plaintiff, CAVALRY PORTFOLIO SERVICES, LLC, as assignee of CAVALRY
SPV I, LLC, as assignee of PRIMUS AUTO FIN. SVCS. complains of
Defendants, and each of them, singularly and collectively, that:

1. The true names and capacities of Defendants herein sued by
the fictitious names of DOES 1 TO 10, Inclusive, are unknown to
Plaintiff, who therefore sues those Defendants under, pursuant to, and
in accordance with the provisions of Section 474 of the Code of Civil
Procedure. Plaintiff will ask leave of court to amend this complaint

1 after the true names and capacities of Defendants named herein as DOES
2 1 TO 10 have been ascertained.

3 2. At all times herein mentioned, Defendants were the agents,
4 servants and employees of each other and in doing the things
5 alleged herein, they were acting in that capacity.

6 3. Plaintiff is now and was at all times alleged herein, a
7 corporation, duly organized and authorized to do business in the State
8 of California.

9 4. Plaintiff is informed and believes and thereon alleges
10 that Defendant BOBBY PEREZ is an individual who resides in the City of
11 Salinas, County of MONTEREY, State of California.

12 5. Plaintiff is informed and believes and thereon alleges
13 that Defendant BOBBY PEREZ is an individual who resides in the City of
14 Salinas, County of MONTEREY, State of California.

15
16 FIRST CAUSE OF ACTION

17 Breach of Agreement

18 (Against All Defendants)

19 6. Plaintiff repleads and incorporates herein Paragraphs 1
20 through 5 of this complaint.

21 7. On or about February 22, 1998, Defendants executed an
22 agreement in writing (hereinafter "Agreement") for the purchase of a
23 motor vehicle (hereinafter "the vehicle"). A true copy of this
24 Agreement is attached hereto as Exhibit "A".

25 8. On or about February 22, 1998, the agreement and all
26 right, title and interest in and to the vehicle were sold,
27 transferred, conveyed and assigned to Plaintiff.

28 9. The Agreement provides for Defendants to pay to Plaintiff

60 monthly installments of \$278.76 starting on February 24, 1998 and for Plaintiff to retain a security interest in the vehicle until the agreement is paid in full.

10. This is a simple interest loan wherein interest is computed at the rate of 5.000% per annum on the declining balance.

11. Defendant defaulted on the payments due pursuant to the agreement. Demand for the amount in default or return of the vehicle was made on Defendants, but they failed and now refuse to pay the amount due or return the vehicle to Plaintiff.

12. As a result, Plaintiff repossessed the vehicle and gave Defendants notice of Plaintiff's intent to (1) sell the vehicle and (2) apply the proceeds from the sale to the sums due on the agreement. A copy of the notice is attached hereto as Exhibit "B" and is incorporated herein by this reference thereto.

13. Defendants neither redeemed the vehicle nor reinstated the contract. As a result, Plaintiff sold the vehicle, applied the proceeds from the sale to the sums due on the agreement, and established a deficiency balance of \$5,558.84. In selling the vehicle, Plaintiff acted in good faith and proceeded in a commercially reasonable manner.

14. Plaintiff made demand on Defendants for payment of the deficiency balance, but Defendants failed and now refuse to pay that sum to Plaintiff. As a result, Plaintiff has been damaged in that amount, plus interest on that sum from January 28, 2003 at the contractual rate. Plaintiff's damages are within the jurisdictional limits of this court.

15. Under the agreement and/or by virtue of a statute, plaintiff is entitled to recover a reasonable sum for attorney fees

1 incurred as a result of this action.

2 16. All conditions precedent to performance of the motor
3 vehicle lease agreement by Defendants have been performed, waiver,
4 released or other wise extinguished.

5
6 SECOND CAUSE OF ACTION

7 Open Book Account

8 (Against All Defendants)

9 17. Plaintiff herein repleads and incorporates herein
10 Paragraphs 1 through 4 of this complaint.

11 18. Within the last four years, Defendants were indebted to
12 Plaintiff for 5,558.84 ("the amount due") on an open book account.

13 19. Plaintiff made demand on Defendants for payment of the
14 amount due, but Defendants failed and now refuse to pay that sum to
15 Plaintiff. As a result, Plaintiff has been damaged in that amount,
16 plus interest on that sum from January 28, 2003 at the highest legal
17 rate allowed by law.

18 20. Under an agreement and/or by virtue of a statute,
19 Plaintiff is entitled to recover a reasonable sum for attorney fees
20 incurred as a result of this action.

21 WHEREFORE, Plaintiff prays for judgment against
22 Defendants, and each of them, individually and collectively, as
23 follows:

24
25 FOR THE FIRST CAUSE OF ACTION:

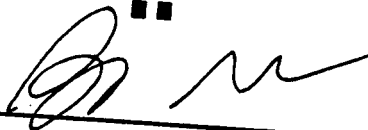
- 26 1. For principal damages in the sum of \$5,558.84;
27 2. For interest thereon at the rate of 5.000%
28 from January 28, 2003 until paid in full;

5. For such other and further relief as the Court deems just and proper.

FOR THE SECOND CAUSE OF ACTION:

1. For principal in the sum of \$5,558.84;
2. For interest thereon from January 28, 2003 to the date of judgment at the highest legal rate allowed;
3. For reasonable attorneys fees;
4. For costs of suit; and
5. For such other and further relief as the Court deems just and proper.

Dated: October 17, 2006


Brian N. Winn
Attorney for Plaintiff

EXHIBIT

A

<p>THERE IS NO COOLING OFF PERIOD</p> <p>California law does not provide for a "cooling off" or other cancellation period for vehicle sales. Therefore, you cannot buy cancel this contract simply because you change your mind, decide the vehicle costs too much, or wish you had purchased a different vehicle. After getting our help, you may only cancel this contract with the agreement of the seller or fair legal cause, such as fraud.</p>	<p>Buyer acknowledges that (1) before signing this agreement Buyer read both sides of this agreement and received a legible, completely filled-in copy of this agreement; and (2) Buyer has received a copy of every other document that Seller signed during the contracting negotiation.</p>
Buyer's Signature X _____ <small>SIGN HERE - COUNTER SIGNATURE JAN FORM NO. 953 CALIF. AND REG. VEHICLES ARE SUBJECT TO A GRADE FRAUD REPORTED BY THE DMV</small>	Co-Buyer's Signature X _____ Address _____ City _____ State _____ Zip _____ Phone # _____ LA 95020

SOUTH COUNTY HISSAN
LAW FORM NO. 653 CALIF. JURY ACT 1969-70, 1971-72, 1972-73, 1973-74, 1974-75, 1975-76, 1976-77, 1977-78, 1978-79, 1979-80, 1980-81, 1981-82, 1982-83, 1983-84, 1984-85, 1985-86, 1986-87, 1987-88, 1988-89, 1989-90, 1990-91, 1991-92, 1992-93, 1993-94, 1994-95, 1995-96, 1996-97, 1997-98, 1998-99, 1999-00, 2000-01, 2001-02, 2002-03, 2003-04, 2004-05, 2005-06, 2006-07, 2007-08, 2008-09, 2009-10, 2010-11, 2011-12, 2012-13, 2013-14, 2014-15, 2015-16, 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22, 2022-23, 2023-24, 2024-25, 2025-26, 2026-27, 2027-28, 2028-29, 2029-30, 2030-31, 2031-32, 2032-33, 2033-34, 2034-35, 2035-36, 2036-37, 2037-38, 2038-39, 2039-40, 2040-41, 2041-42, 2042-43, 2043-44, 2044-45, 2045-46, 2046-47, 2047-48, 2048-49, 2049-50, 2050-51, 2051-52, 2052-53, 2053-54, 2054-55, 2055-56, 2056-57, 2057-58, 2058-59, 2059-60, 2060-61, 2061-62, 2062-63, 2063-64, 2064-65, 2065-66, 2066-67, 2067-68, 2068-69, 2069-70, 2070-71, 2071-72, 2072-73, 2073-74, 2074-75, 2075-76, 2076-77, 2077-78, 2078-79, 2079-80, 2080-81, 2081-82, 2082-83, 2083-84, 2084-85, 2085-86, 2086-87, 2087-88, 2088-89, 2089-90, 2090-91, 2091-92, 2092-93, 2093-94, 2094-95, 2095-96, 2096-97, 2097-98, 2098-99, 2099-00, 2100-01, 2101-02, 2102-03, 2103-04, 2104-05, 2105-06, 2106-07, 2107-08, 2108-09, 2109-10, 2110-11, 2111-12, 2112-13, 2113-14, 2114-15, 2115-16, 2116-17, 2117-18, 2118-19, 2119-20, 2120-21, 2121-22, 2122-23, 2123-24, 2124-25, 2125-26, 2126-27, 2127-28, 2128-29, 2129-30, 2130-31, 2131-32, 2132-33, 2133-34, 2134-35, 2135-36, 2136-37, 2137-38, 2138-39, 2139-40, 2140-41, 2141-42, 2142-43, 2143-44, 2144-45, 2145-46, 2146-47, 2147-48, 2148-49, 2149-50, 2150-51, 2151-52, 2152-53, 2153-54, 2154-55, 2155-56, 2156-57, 2157-58, 2158-59, 2159-60, 2160-61, 2161-62, 2162-63, 2163-64, 2164-65, 2165-66, 2166-67, 2167-68, 2168-69, 2169-70, 2170-71, 2171-72, 2172-73, 2173-74, 2174-75, 2175-76, 2176-77, 2177-78, 2178-79, 2179-80, 2180-81, 2181-82, 2182-83, 2183-84, 2184-85, 2185-86, 2186-87, 2187-88, 2188-89, 2189-90, 2190-91, 2191-92, 2192-93, 2193-94, 2194-95, 2195-96, 2196-97, 2197-98, 2198-99, 2199-00, 2200-01, 2201-02, 2202-03, 2203-04, 2204-05, 2205-06, 2206-07, 2207-08, 2208-09, 2209-10, 2210-11, 2211-12, 2212-13, 2213-14, 2214-15, 2215-16, 2216-17, 2217-18, 2218-19, 2219-20, 2220-21, 2221-22, 2222-23, 2223-24, 2224-25, 2225-26, 2226-27, 2227-28, 2228-29, 2229-30, 2230-31, 2231-32, 2232-33, 2233-34, 2234-35, 2235-36, 2236-37, 2237-38, 2238-39, 2239-40, 2240-41, 2241-42, 2242-43, 2243-44, 2244-45, 2245-46, 2246-47, 2247-48, 2248-49, 2249-50, 2250-51, 2251-52, 2252-53, 2253-54, 2254-55, 2255-56, 2256-57, 2257-58, 2258-59, 2259-60, 2260-61, 2261-62, 2262-63, 2263-64, 2264-65, 2265-66, 2266-67, 2267-68, 2268-69, 2269-70, 2270-71, 2271-72, 2272-73, 2273-74, 2274-75, 2275-76, 2276-77, 2277-78, 2278-79, 2279-80, 2280-81, 2281-82, 2282-83, 2283-84, 2284-85, 2285-86, 2286-87, 2287-88, 2288-89, 2289-90, 2290-91, 2291-92, 2292-93, 2293-94, 2294-95, 2295-96, 2296-97, 2297-98, 2298-99, 2299-00, 2300-01, 2301-02, 2302-03, 2303-04, 2304-05, 2305-06, 2306-07, 2307-08, 2308-09, 2309-10, 2310-11, 2311-12, 2312-13, 2313-14, 2314-15, 2315-16, 2316-17, 2317-18, 2318-19, 2319-20, 2320-21, 2321-22, 2322-23, 2323-24, 2324-25, 2325-26, 2326-27, 2327-28, 2328-29, 2329-30, 2330-31, 2331-32, 2332-33, 2333-34, 2334-35, 2335-36, 2336-37, 2337-38, 2338-39, 2339-40, 2340-41, 2341-42, 2342-43, 2343-44, 2344-45, 2345-46, 2346-47, 2347-48, 2348-49, 2349-50, 2350-51, 2351-52, 2352-53, 2353-54, 2354-55, 2355-56, 2356-57, 2357-58, 2358-59, 2359-60, 2360-61, 2361-62, 2362-63, 2363-64, 2364-65, 2365-66, 2366-67, 2367-68, 2368-69, 2369-70, 2370-71, 2371-72, 2372-73, 2373-74, 2374-75, 2375-76, 2376-77, 2377-78, 2378-79, 2379-80, 2380-81, 2381-82, 2382-83, 2383-84, 2384-85, 2385-86, 2386-87, 2387-88, 2388-89, 2389-90, 2390-91, 2391-92, 2392-93, 2393-94, 2394-95, 2395-96, 2396-97, 2397-98, 2398-99, 2399-00, 2400-01, 2401-02, 2402-03, 2403-04, 2404-05, 2405-06, 2406-07, 2407-08, 2408-09, 2409-10, 2410-11, 2411-12, 2412-13, 2413-14, 2414-15, 2415-16, 2416-17, 2417-18, 2418-19, 2419-20, 2420-21, 242

ADDITIONAL TERMS AND AGREEMENTS

A. PAYMENT TO PFR: You promise to pay the debt payment and the Amount Financed, plus the finance charges on the Amount Financed, as shown in the Payment Schedule. The Finance charges will be computed daily on a simple interest basis by applying the Annual Percentage Rate to the unpaid portion of the Amount Financed until all sums due under this contract are fully paid. Payments will be applied first to any accrued delinquent payment, then to the finance charges and then to repay the Amount Financed.

8. SIMPLE INTEREST CONTRACT: This is a simple interest contract. The Finance Charge, Total of Payments and Payment Schedule shown may differ from the amount you will ultimately have to pay. Payments are not received on their exact due dates or the dollar added amounts to the amount you owe for any of the reasons stated below. For example, early payments would reduce your payments. While late payments and additions to the amount you owe would increase it. Your late payments may also be different than the amount shown if the Seller agreed the Payment Schedule may include monthly payment products and other factors that are permitted under the Truth in Lending Act. Your promise to pay requires you to pay the total payment on the date due for all of the reasons stated below.

3. SECURITY INTEREST: You hereby grant to a security interest under the California Uniform Commercial Code in the vehicle and all parts or accessories put on the vehicle and in all insurance policies pursuant to this view of interest from insurance premiums, service contracts, and in the proceeds of any insurance policies covering the vehicle or credit or disability insurance policies financed hereunder. Your security interest secures all claims which may become due under this contract, as well as any modifications, extensions, renewals, attachments, or re-issuance of it.

4. USE OF VEHICLE: You agree to keep the vehicle free of all taxes and fees, except in favor of Seller, and not to use the vehicle—or permit the vehicle to be used illegally, improperly, or for any purpose not intended by the manufacturer.

[illegible][illegible]

PREPAYMENT OF AMOUNT OWED: You may prepay all amounts due under this contract at any time. In addition, if you fail to make any payment when due or perform any other agreement properly or voluntarily, you may, in addition to other remedies, declare all sums immediately due and payable. If you prepay, a portion of your balance, the payment will be credited first to interest accrued to the unpaid Amount Financed. Your next payment will be on the next regular installment date. If you prepay in full, you and we are entitled to a minimum finance charge as follows: (a) If the original Amount Financed was not exceed \$1,000 (or \$500, if the original Amount Financed is more than \$1,000, but not more than \$2,000) or (b) 5%. If the original Amount Financed is more than \$2,000, your prepayment will be considered, as applicable as to the sums you are paid in full, or as to the date we recover the vehicle's value through its disposition, or upon entry of a court judgment against you, to have been used as we elect to have the vehicle in satisfaction of what you owe under this contract, as of the date we take possession of the vehicle.

[illegible][illegible]

POWER OF ATTORNEY: This deed appears to be, as well as any of our appropriate officers or other employees, as your attorney-in-fact, with full power of substitution, to sign in your name, place and seal, any and all Certificates of Ownership, Registration Cards, applications, affidavits, and/or other documents required or necessary to transfer or convey any and all right, title and interest in and to said real property to persons, and to do so at any time and in all other acts necessary or incident to the execution of the powers you hereby grant us, as fully and to all intents and purposes as you or we could do in person. This deed is hereby acknowledged by me, the undersigned, as the owner of the above described real property, and I hereby certify that the foregoing is a true and correct copy of the original as the same appears in the records of the County of Los Angeles, California.

[illegible][illegible]

SELLER'S WARRANTIES: The Seller or new owner shall warrant to the Buyer as to the accuracy of the vehicle on the date of sale. We do not warrant the condition of the year of manufacture or make of the vehicle. The Buyer agrees to accept the vehicle "as is" without warranty as to the correctness of the description of the vehicle. UNLESS YOU HAVE RECEIVED AN EXPRESS WARRANTY IN WRITING, THERE ARE NO EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE MERCHANTABILITY, SUITABILITY, FITNESS FOR PURPOSE, OR OTHERWISE CONCERNING THE VEHICLE PARTS OR ACCESSORIES DESCRIBED HEREIN.

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER.

NOTICE TO BUYER:

(1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.

ASSIGNMENT WITH RECOURSE

FOR VALUE RECEIVED, the Agreement herein assigned (on the reverse side) between the Purchaser and the Undersigned, and the property described, and all the rights, title and interest therein of the Undersigned are hereby sold, assigned and transferred to:

[illegible]

Dated _____ at _____ (Dentist's City and State)
Signed _____ (Name of Dentist) (Seal) By _____
(Signature of A. J. Kline, Firm Member or Owner)

ASSIGNMENT WITHOUT RECOURSE **Flatus Automotive Financial Services**
P.O. Box 880030

ASSIGNMENT WITHOUT RECOURSE

FOR VALUE RECEIVED, the undersigned (assignor) does hereby sell, assign and transfer to: **F.O. BOX 880030**
 his, its or their right, title and interest in the within agreement, the property described therein, and the monies to become due **EMMA J. GORDON** WITHOUT RECOURSE in

representations of the following representations shall be accurate: (a) that said agreement represents a bona fide sale and was actually secured in good faith by the Purchaser herein named; (b) that at the time of such complete said purchaser was of legal age and competent to execute the agreement; (c) that the property which is subject to said agreement is not subject to any lien or encumbrance other than that herein provided for; (d) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (e) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (f) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (g) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (h) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (i) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (j) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (k) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (l) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (m) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (n) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (o) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (p) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (q) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (r) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (s) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (t) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (u) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (v) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (w) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (x) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (y) that the said agreement is not subject to any lien or encumbrance other than that herein provided for; (z) that the said agreement is not subject to any lien or encumbrance other than that herein provided for.

2-24-83 SOUTH COUNTY NISSAN (Seal) GILROY, CA 95020

(Official, Item Inspector or Owner)

CRUM NO. 653 JULY REC. 1980

EXHIBIT

B

PRIMUS Financial Services
P.O. Box 080060
FRANKLIN, TN 37068-0060
(800) 374-7000

LEANDRO G PEREZ
110 NESTLEY RD
SOLEDAD, CA 93880-0000

Date of Contract 02-28-1998		Date of Notice 07-26-2000
Account Number: 016340084		
Buyer: LEANDRO G PEREZ		
Co-Buyer: BOBBY PEREZ		
DESCRIPTION OF VEHICLE		
Year 1997	Make GMC	Model SONOMA
Vehicle Identification Number: 1GTC51446V8502238		
Dealer's Name SOUTH COUNTY NISSAN		Dealer's Phone (408) 842-1777
Dealer's Address 400 STUTZ WAY, GILROY CA 95020		

RIGHTS OF DEFAULTING PARTIES UNDER CALIFORNIA AUTOMOBILE SALES FINANCE ACT

To get your property back, pay us this amount in cash, certified check, or money order before the vehicle is sold.

☒ We've repossessed your vehicle.

YOU ARE IN DEFAULT UNDER YOUR CONTRACT AS FOLLOWS:

☐ Overdue payments:

Amount

Due

\$ _____ 5-24-2000
\$ _____
\$ _____

☐ You have voluntarily turned in your vehicle to us.

☐ Failure to obtain or maintain required insurance.

☐ Other: _____

☐ Seizure/Impound: Your vehicle has been seized by a Police Department due to a suspended or revoked driver's license.

HOW TO GET YOUR VEHICLE BACK

You may redeem the vehicle by:

☒ Paying us the amount set out under "REDEEMING" below within the time period indicated or before the vehicle is sold, whichever is later.

☒ Providing us with proof of valid driver's license or valid temporary driver's license set out under "REDEEMING" below.

You can restore the contract and pay future monthly payments as they become due. This is called "reinstatement." To do this you will have to:

☒ Paying us the amount set out under "REINSTATEMENT" below within the time period indicated.

☒ Provide proof of insurance set out under "REINSTATEMENT" below within the time period indicated.

☒ Provide us with proof of valid driver's license or valid temporary driver's license set out under "REINSTATEMENT" below.

You may not cure the default and reinstate the contract because:

☐ The contract has, prior to the above described default, been reinstated once before within the last 12 months or twice before during the term of the contract.

☐ Other (Specify): _____

REINSTATEMENT

To REINSTATE your contract you must do the following:

☒ Pay to Creditor in cash, certified check or money order within 20 days from the date of this notice, the following amount:

Installment(s) past due	\$ 674.30
Default collection and delinquency charges	\$ 113.43
Expenses of retaking the vehicle	\$ 340.00
Expenses of repairing the vehicle	\$ _____
Expenses of storing the vehicle	\$ _____
TOTAL	\$ 1,127.73

(Plus payments or expenses that may become due or be incurred during the period stated above)

☒ Furnish proof of required insurance with loss payable endorsement to Creditor within 20 days from the date of this notice.

☒ Furnish proof of valid driver's license or valid temporary driver's license to Creditor within 20 days from the date of this notice.

☒ Other (specify) SEE ATTACHED

If you cure the default within the time allowed the contract will be reinstated and you may continue on with the transaction as though no default has occurred.

Send all payment/correspondence to the address shown on the letterhead above.

REDEEMING

To REDEEM your vehicle you must do the following:

☒ Pay to Creditor in cash, certified check or money order within 20 days from the date of this notice, the following amount:

Unpaid contract balance	\$ 9,314.91
Delinquency and collection charges	\$ 113.43
Expenses of retaking the vehicle	\$ 340.00
Expenses of repairing the vehicle	\$ _____
Expenses of storing the vehicle	\$ _____
Other: (Specify) <u>SEE ATTACHED</u>	\$ _____
Sub-Total	\$ 9,768.34
Less: Refund of unearned finance charge	\$ _____
Unearned insurance premium	\$ _____

TOTAL AMOUNT REQUIRED TO REDEEM THE VEHICLE AS OF THE DATE OF THIS NOTICE \$ 9,768.34

(Plus expenses incurred and less rebate received after the date of this notice.)

☒ Furnish proof of valid driver's license or valid temporary driver's license to Creditor within 20 days from the date of this notice.

Upon written request (you may use the enclosed form for this purpose) personally served or sent by first-class mail, postage prepaid, or certified mail, return receipt requested, to our branch address shown above, we will extend for an additional 10 days the redemption period or, if entitled, the reinstatement period described above.

IMPORTANT NOTICE

☐ The law requires your vehicle be held for a 30 day impoundment period. We cannot release the vehicle to you until after _____ days even if you redeem or reinstate.

☐ Your vehicle has been (or will be) returned to the dealer named above. Under our agreement with your dealer, the dealer is to sell the vehicle and pay you any money left over. If the vehicle is redeemed or the contract reinstated, the vehicle may be reclaimed at the dealer's address above.

☒ Your vehicle is in the custody of and will be sold by Creditor. If the vehicle is redeemed or the contract is reinstated, the vehicle may be reclaimed at:
BAY CITIES AA, 29900 AUCTION WAY, HAYWARD CA 94544

SEE OTHER SIDE FOR IMPORTANT INFORMATION

Your vehicle won't be sold until ²⁰ days after the date of this notice at the EARLIEST. After that you can still get it back by REDEEMING it anytime before it is actually sold. If you do we'll have no further claim on it. But the longer you wait, the more costs (including repairs) you may have to pay.

MILEAGE DISCLOSURE - If you are aware that the mileage reflected on the vehicle's odometer is not accurate for any reason, please contact us so that we can accurately report the vehicle's mileage.

☒ **PERSONAL PROPERTY** - Any Personal Property found in our collateral may be reclaimed by you within the next 60 days or, in accordance with state law, by contacting this office. Thereafter, the personal property shall be discarded accordingly.

NOTICE. YOU MAY BE SUBJECT TO SUIT AND LIABILITY IF THE AMOUNT OBTAINED UPON DISPOSITION OF THE VEHICLE IS INSUFFICIENT TO PAY THE CONTRACT BALANCE AND ANY OTHER AMOUNTS DUE.

If the vehicle has been returned to the dealer and if the vehicle is not redeemed or the contract is not reinstated within the time periods specified on the reverse side the dealer will dispose of the vehicle by private sale. Upon written request personally served or sent by first-class mail, postage prepaid, or certified mail, return receipt requested, to the dealer at the dealer's address on the reverse side, the dealer will furnish you with a written accounting regarding the disposition of the vehicle; providing, such request is made within one year of the date of the disposition of the vehicle.

If the vehicle is in the custody of Creditor and if the vehicle is not redeemed or the contract is not reinstated within the time periods specified on the reverse side the vehicle will be disposed of by private sale. Upon written request personally served or sent by first-class mail, postage prepaid, or certified mail, return receipt requested, to our branch address shown on the reverse side, we will furnish you with a written accounting regarding the disposition of the vehicle; provided, such request is made within one year of the date of the disposition of the vehicle.

The proceeds of the sale shall be applied to the reasonable expenses of retaking, holding, preparing for sale, selling said property and reasonable attorney fees and legal expenses permitted by law, then to the satisfaction of the balance due under the contract covering the financing of said property and then to the satisfaction of any indebtedness secured by any subordinate security interest in said property.

INSURANCE RIGHTS: If you don't want to get your property back, call the insurance company or the dealer/original creditor to make sure that any insurance has been cancelled. You have a right to get credit for all premium refunds.

RIGHT TO MONEY LEFT OVER FROM SALE: When your vehicle is sold, the sale price minus expenses will be deducted from your debt. If any money is left over, it must be paid to you within 45 days after the sale. If you don't get this money, you may have a right to sue for it plus penalties under state law.

REMAINING DEBT - The sale price might not cover your debt and expenses. If that happens, you'll owe the difference to us or the dealer/original creditor. We intend to pursue our claim against you for the amount of such difference due and owing to us. If the property is returned to the dealer/original creditor, the dealer/original creditor may pursue his claim against you for the amount of the difference due and owing the dealer/original creditor.

Upon the disposition of your vehicle, you will be liable for the deficiency balance plus interest at the contract rate, or at the legal rate of interest pursuant to Section 3289 of the California Civil Code if there is no contract rate of interest, from the date of disposition of your vehicle to the date of entry of judgement.

If you have any questions or wish to make payment of any amount listed on the reverse side, you may contact the person whose signature appears on the front of this notice.

ENCLOSURE

Very truly yours,
DEBBIE ARGO

PRIMUS Financial Services
P.O. Box 880090
FRANKLIN, TN 37088-0090
(800) 374-7000

Account Number:		016340084	
DESCRIPTION OF PROPERTY			
Year	Make	<input type="checkbox"/> New	
1997	GMC	<input checked="" type="checkbox"/> Used	
Vehicle Identification Number:			
1GTCS1446V8502238			
Model:		Body	
SONOMA			

LEANDRO G. PEREZ
110 NESTLEY RD
SOLEDAD, CA 93980-0000

Request for Extension of Redemption/Reinstatement Period

To: Creditor

The undersigned hereby requests that you extend for an additional 10 days the redemption period and, if entitled, the reinstatement period provided for in the Rights of Defaulting Parties Under California Automobile Sales Finance Act received by the undersigned from you and dated 07-26-2007.

Buyer

Co-Buyer or Guarantor

Date Signed _____

Note: This request must be personally served by first class mail, postage prepaid, or certified mail, return receipt requested, to the Creditor office shown below:

PRIMUS Financial Services

P.O. Box 880090

Street & No.
FRANKLIN, TN 37088-0090
City State Zip Code

Date: 07-26-2000

Re: Account Number: 018340084

Dear LEANDRO G PEREZ

California law requires that a customer pay a \$15 administrative fee to the police department originally notified of the repossession in order to redeem the vehicle and reinstate the contract. You must pay this fee directly to the police department prior to vehicle redemption or contract reinstatement.

When you pay the \$15 fee to the police department, you must retain the receipt from the police department and provide to Creditor as proof of payment upon vehicle redemption and contract reinstatement.

If you have any questions, please call one of our Customer Service Representatives at the number listed above.

Sincerely,
DEBBIE ARGO

Brian N. Winn (State Bar No. 86779)
Stephen R. Pritsker (State Bar No. 158566)
John E. Gordon (State Bar No. 180053)
Winn and Sims, a Professional Corporation
110 E. Wilshire Avenue, Suite 212
Fullerton, CA 92832
Telephone: (714) 446-6686
Fax No.: (714) 446-6680
File No.: 06-13747-0
Attorneys for Plaintiff

FILED

NOV 16 2006

LISA M. GALDOS
CLERK OF THE SUPERIOR COURT
~~DEIRDRE K. DINEEN~~ DEPUTY

SUPERIOR COURT OF CALIFORNIA
MONTEREY COUNTY, MONTEREY DISTRICT

CAVALRY PORTFOLIO SERVICES, LLC, as
assignee of CAVALRY SPV I, LLC, as assignee
of PRIMUS AUTO FIN. SVCS.

Plaintiff,

vs

LEANDRO G PEREZ, ET AL.

Defendant(s),

BY FAX

Case No. **M81708**

DECLARATION RE: VENUE

[C.C. Section 2984.4]

"LIMITED CIVIL MATTER"

I, the undersigned, hereby declare that:

1. The contract herein sued upon is hereinafter called and referred to as "the contract".
2. This action is filed in the judicial district in which:

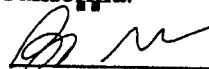
☐ The contract was in fact signed.

☒ One of the defendant(s) currently reside(s).

☐ One of the defendant(s) resided when the contract was entered into.

3. The address that qualifies this case for the above-referenced jurisdiction is: 461 El Camino Real S, Salinas, CA 93908.

I declare under penalty of perjury that the foregoing is true and correct. Dated and executed on October 17, 2006, in the City of Fullerton, State of California.


Brian N. Winn

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): WINN AND SIMS, APC TELEPHONE NO.:
 BRIAN N. WINN (SB# 86779) 714-446-6686
 JOHN E. GORDON (SB# 180053) FAX 714-446-6680
 NAOMI S. BRICKEY (SB# 240597)
 JONATHAN B. KLEIN (SB# 236982)
 110 E. WILSHIRE AVENUE, SUITE 212
 FULLERTON, CA 92832
 FILE NO: 06-13747-0 - EMC (1910-00)
 ATTORNEY FOR (NAME): Plaintiff

FOR COURT USE ONLY

FILED

MAY 07 2007

LISA M. GALDOS
 CLERK OF THE SUPERIOR COURT
 DEPUTY
 ANDY KIM

PLAINTIFF/PETITIONER: CAVALRY PORTFOLIO SERVICES, LLC, et al.

DEFENDANT/RESPONDENT: LEANDRO G PEREZ, et al.

REQUEST FOR DISMISSAL

- ☐ Personal Injury, Property Damage, or Wrongful Death
☐ Motor Vehicle ☐ Other
☐ Family Law
☐ Eminent Domain
☒ Other (specify): Complaint for Money

CASE NUMBER:

M81708

— A conformed copy will not be returned by the clerk unless a method of return is provided with the document. —

1. TO THE CLERK: Please dismiss this action as follows:

- a. (1) ☒ With prejudice (2) ☐ Without prejudice
 b. (1) ☐ Complaint (2) ☐ Petition
 (3) ☐ Cross-complaint filed by (name):
 (4) ☐ Cross-complaint filed by (name):
 (5) ☐ Cross-complaint filed by (name):
☒ Entire action of all parties and all causes of action
 (6) ☐ Other (specify):*

on (date):

on (date):

Date: April 30, 2007

Naomi S. Brickey

(TYPE OR PRINT NAME OF ☒ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

* If dismissal requested is of specified parties only, of specified causes of action only, or of specified cross-complaints only, so state and identify the parties, causes of action, or cross-complaints to be dismissed.


 (SIGNATURE)

Attorney or party without attorney for:

- ☒ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-complainant

2. TO THE CLERK: Consent to the above dismissal is hereby given."

Date:

(TYPE OR PRINT NAME OF ☐ ATTORNEY ☐ PARTY WITHOUT ATTORNEY)

* If a cross-complaint or Response (Family Law) seeking affirmative relief is on file, the attorney for the cross-complainant (respondent) must sign this consent if required by Code of Civil Procedure section 581(i) or (j).


 (SIGNATURE)

Attorney or party without attorney for:

- ☐ Plaintiff/Petitioner ☐ Defendant/Respondent
☐ Cross-complainant

(To be completed by clerk)

3. ☒ Dismissal entered as requested on (date): MAY 07 2007
 4. ☐ Dismissal entered on (date): as to only (name):
 5. ☐ Dismissal not entered as requested for the following reasons (specify): MAY 07 2007
 6. ☒ a. Attorney or party without attorney notified on (date):
 b. Attorney or party without attorney not notified. Filing party failed to provide
☐ a copy to conform ☐ means to return conformed copy

LISA M. GALDOS

Date: MAY 07 2007

Clerk, by  ANDY KIM, Deputy